



Confederated Tribes and Bands of the Yakama Nation
Established by the Treaty of June 9, 1855

Post Office Box 151
Toppenish Washington 98948

January 9, 2007

Kimberly St. Hilaire
Cultural Resources Program Manager
Environment, Fish and Wildlife - KEC-4
P.O. Box 3621, Portland OR
97208-3621

Subject: Federal Columbia River Power System Programmatic Agreement.

Ms. Hilaire,

Listed in the table below are the Confederated Tribes and Bands of the Yakama Nations comments on the latest draft of the FCRPS PA.

5 th Whereas	The PA addresses the joint NHPA Section 106 compliance issue. The definition given for minor construction in support of operations is specific to COE NHPA Section 106 compliance issues and these minor construction projects cannot be exempted by this PA in its current form. Undertakings specific only to the COE or other federal agencies must be dealt with outside of this joint PA.
8 th Whereas	This PA should only address the joint compliance activities. Delete the last two sentences.
Now, Therefore	Adherence to the PA would satisfy they lead federal agencies joint NHPA Section 106 responsibility. Undertakings outside of the joint undertaking would not be covered.
I. B.	If all federal agencies would approach the federal statutes through the auspices of Trust Responsibility, then all federal laws, regulations, legislative acts, litigated decisions and executive orders.
I. C. D.	Please provide what joint Section 106 issues need to be streamlined.
II. A.3.	All federal lands must be inventoried.
II. A.5.	Will completely destroyed Historic Properties be addressed?
II. A.7.	The YN is an Affected Tribe, not simply an interested party.
II. D.	Conversely, Formal Tribal requests to the federal agencies must

Johnson Meninick
Cultural Resources Program
January 10, 2001
Page 2 of 3

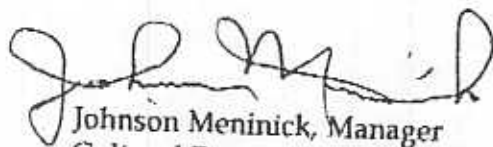
	also be bound to the same time schedule.
II. E.	A PA should not run for 30 years. A 10 year commitment is more acceptable. This commitment must contain a five year interval review along with options to review on a case by case basis.
IV. A. (point 10)	A research design is an unnecessary component for historic property evaluation. Different professional researches will identify separate themes for investigation thereby placing inherent scientific bias on the management of the archaeological record. We cannot predict what theoretical paradigms will be investigated in the future. We cannot predict how technological innovation will effect the scientific perception of archaeological deposits in the future. Therefore we are left with the question of integrity (listed in point 9). If the archaeological deposit has integrity and is able to answer scientific inquires, then it is eligible to the national register under Criterion D. Eligibility would still need to be investigated under the other available criteria if eligibility under criteria D was not met.
IV. C.	With Tribes as signatory participants in this PA, the identification, evaluation, and treatment of TCP's should be a driving theme of the PA.
IV. D.	The federal agencies must also commit to seek authorization to complete work on effected non-federal land.
V. B.	Again, compliance in regard to the joint undertaking.
V. E.	Although the YN is interested in this subject, legally the YN is an Affected Party due to the Reserved Treaty Rights that the YN reserved onto itself through the Treaty of 1855 (12 Stat. 951).
V. F. 5.	A research design should not be used as a guide for treatment plans. RD may be inserted under V. F. 8., and these researchers will have the benefit of their scientific institutions and grant opportunities for their specific projects.
VI.	Unnecessary, remove.
VIII. B.	Provide the documentation that led to the development of the working groups. These documents may have existing NHPA Section 106 implications.
XIII.	If an entity never signs the PA, will the PA not impact that entities effected area and status?

This PA was developed unilaterally by the federal agencies and the effected tribal parties have only been able to comment on the document. It would be in the spirit of the FCRPS working groups if the PA was developed cooperatively between all affected entities. A PA developed in this manner would look very different and would certainly address all

Johnson Meninick
Cultural Resources Program
January 10, 2001
Page 3 of 3

tribal concerns. The YN Cultural Resources Program has recommended to our policy makers that this document should not be signed. If you have any questions please contact myself at (509) 865-5121 extension 4737.

Sincerely,



Johnson Meninick, Manager
Cultural Resources Program

cc: Lavina Washines, Chairperson, Yakama Nation Tribal Council
Johnny Smartlowit, Yakama Nation Cultural Committee Chairman
Phil Rigdon, Deputy Director DNR
Allyson Brooks, State Historic Preservation Officer
Kate Valdez, Yakama Nation Tribal Historic Preservation Office
Barbara Creel, Portland District COE